

***Superseded 7/1/2015***

**53A-6-401 Background checks.**

- (1)
  - (a) A license applicant shall submit to a background check as a condition for licensing.
  - (b) As used in this section, licensing includes reinstatement of a lapsed, suspended, or revoked license.
- (2) Where reasonable cause exists, the State Board of Education may require an educator to submit to a criminal background check.
- (3)
  - (a) The office shall establish a procedure for obtaining and evaluating relevant information concerning license applicants, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.
  - (b) The Criminal Investigations and Technical Services Division shall release to the office all information received in response to the office's request.
  - (c) The Criminal Investigations and Technical Services Division shall maintain a separate file of fingerprints submitted under Subsection (3)(a) and notify the office when a new entry is made against a person whose fingerprints are held in the file regarding any matters involving an alleged:
    - (i) sexual offense;
    - (ii) drug-related offense;
    - (iii) alcohol-related offense; or
    - (iv) offense against the person under Title 76, Chapter 5, Offenses Against the Person.
  - (d) The cost of maintaining the separate file shall be paid by the office from fees charged to those submitting fingerprints.
- (4) An applicant or educator shall have an opportunity to respond to any information received by the office as a result of the background check.
- (5) In preparing recommendations concerning licensing for submission to the board, the office shall consider only the following matters obtained through fingerprint checks to the extent that they are relevant to the license sought by the applicant or held by the educator:
  - (a) convictions, including pleas in abeyance;
  - (b) any matters involving an alleged sexual offense;
  - (c) any matters involving an alleged felony or class A misdemeanor drug offense;
  - (d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;
  - (e) any matters involving a felony;
  - (f) any matters involving a class A misdemeanor property offense alleged to have occurred within the previous three years; and
  - (g) any matters involving any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have taken place within the previous eight years.
- (6) If a recommendation is made for denial, suspension, or revocation of licensure because of information obtained through a background check, the person shall receive written notice of the reasons for the recommendation and have an opportunity to respond in accordance with procedures set forth under board rules.
- (7) Information obtained under this section is confidential and may only be disclosed as provided in this part.
- (8) The applicant shall pay the costs of conducting the background check required pursuant to Subsection (1).

(9) This section applies to matters occurring both before and after the effective date of this section.